IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2822 of 2004

GOVIND LAL SHARMA
V/S
STATE & ORS.

Mr. DLR VYAS for Mr. BM BOHRA, for the appellant / petitioner

Mr. BL BHATI, A.G.A., for the respondent

Date of Order : 17.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

The petitioner, by this petition seeks to challenge the order Annexure-9 and 11, whereby he has been given punishment of withholding of one grade increment with cumulative effect, consequent upon departmental enquiry, and that order has been upheld in appeal.

The facts of the case are, that the petitioner was appointed as Patwari, vide order dt. 4.7.1983, and was served with a charge sheet about having got allotted 7 bighas of land in his name, and thereby having committed misconduct. The supplementary charge-sheet was served on the petitioner alleging that while receiving training he got the land allotted in his name, showing himself as landless person, and being bonafide agriculturist, whereas the land was not in his possession, and thus he got

allotted the land by projecting wrong facts. The two authorities below found the charges proved, and imposed the aforesaid punishment.

The contention of the learned counsel for the petitioner is, that during the period 15.7.1982 to 16.4.1983, the petitioner was only under training, and thus was a student, to whom the C.C.A. Rules were not applicable, and that there was no restriction on the students to carry on the agricultural operations, that the application was made by his colleague Nandlal, and that the question as to whether the petitioner was in possession of land or not, does not effect the eligibility of the petitioner to get the land allotted, as the allotting authority had taken decision for allotment only after the application was received through proper channel, and thorough scrutiny, and all necessary enquiries, and therefore, there is no question of his making any false, or incorrect statement. Another submission made is, that the proceedings for cancellation of allotment have already been terminated in favour of the petitioner, and therefore, also the impugned orders are liable to be quashed.

In my view, none of these contentions are worth acceptance. True it is, that the allotment order was issued on 3.1.1983, but then, he has been selected for appointment way back in the year 1982, and was sent for training from

15.7.1982 to 16.4.1983. It is required to be grasped, that as the petitioner was selected for being appointed as Patwari, and simply because before issuance of formal appointment order, the petitioner was required to undergo training, and to complete it successfully, it cannot be said, that "the petitioner was a student", as sought to be contended, and for the purpose, with which it was sought to be contended. It is also significant to note, that from a look at the application for allotment, copy whereof has been made available on record as Annexure-3, it is clear, that the application is primarily by the petitioner, and in addition, the name of Nandlal has also been added. The nature of the land is shown to be hillock, and the allotment has been made only considering the fact, about the petitioner being in possession. In the affidavit accompanying the writ petition, the petitioner has shown his age to be 42 years in the year 2004, and therefore, at the time of his selection, he must have been of 20 years of age, and it does not stand to reason, that by then, he was in possession of the land, and carrying on agricultural operations thereon, so as to be entitled to allotment of land, more particularly when the nature of the land is hillock i.e. un-cultivable. This circumstance clearly does show, that after having been selected as Patwari, before issuance of formal appointment order, the petitioner did take advantage of this position, and got the land allotted in his name.

In such circumstances, when the delinquent has already been visited with mild punishment, i.e. instead of removing the petitioner from service, despite his being a man of such weak moral fabric, and sufficiently intelligent to attempt in circumventing the law, and weaving out hyper technical devices, so as to get involved in this type of activities, even at the threshold of his career, he has been let off, only with mild punishment of withholding of one grade increment with cumulative effect, it cannot be said, that if any interference is declined in 226 jurisdiction, it would occasion any failure of justice to the petitioner. It is required to be grasped, that the conduct of such persons, grabbing lands in such manner, is not required to be countenanced, by making interference by this Court under Article 226 jurisdiction, on hyper technical ground, projected by the learned counsel for the petitioner.

Thus, I do not find any sufficient ground to interfere in the impugned orders.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

/Sushil/